

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
ALLTEL Communications, Inc.)	
Petition For Designation as an)	
Eligible Telecommunications)	
Carrier and Rural Service Area)	
Redefinition in the State of North Carolina)	

**COMMENTS OF THE
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

The Cellular Telecommunications & Internet Association ("CTIA")¹ hereby submits its comments in the above captioned proceeding in support of the Petition for Eligible Telecommunications Carrier ("ETC") designation filed by ALLTEL Communications on behalf of itself and its wholly-owned and controlled licensee affiliates ("ALLTEL").²

INTRODUCTION

On August 26, 2003, ALLTEL filed a petition ("ALLTEL Petition") seeking designation as an ETC throughout its licensed service area in the State of North Carolina, which includes

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers all Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

² *Wireline Competition Bureau Seeks Comment on ALLTEL Communications, Inc. Petition for Designation as an Eligible Telecommunications Carrier and Rural Service Area Redefinition in the State of North Carolina*, Public Notice, CC Docket No. 96-45, DA 03-3824 (rel. Nov. 26, 2003); *see also* ALLTEL Communications, Inc. Petition for Designation as an Eligible Telecommunications Carrier and Rural Service Area Redefinition in the State of North Carolina, 68 Fed. Reg. 75, 562-63 (Dec. 31, 2003) (setting Jan. 12, 2004, comment date).

service areas currently served by BellSouth Telecomm Inc., Verizon South, Inc.-NC, Verizon South, Inc. (CONTEL), and North State Telephone Co., and for service offered in rural wire centers currently served by ALLTEL Carolina, Inc., Atlantic Telephone Membership, Central Telephone Co., Concord Telephone Company, Ellerbe Telephone Co. Inc., Lexcom Telephone Company, Mebtel Inc., Piedmont Telephone Membership, Pineville Telephone Co., Randolph Telephone Co., Randolph Telephone Membership, Service Telephone Co., Sprint Mid-Atlantic, Star Telephone Membership, Surry Telephone Membership, Tri-County Telephone Membership, and Yadkin Valley Telephone Membership.³ ALLTEL seeks designation as an ETC under section 214(e)(6) of the Communications Act of 1934, as amended, so that it can receive federal universal service support in the State of North Carolina and speed the delivery of advanced wireless services to the citizens of North Carolina.

Consistent with CTIA's position in earlier comments, CTIA supports ALLTEL's Petition, which demonstrates that ALLTEL meets the requirements for designation as an ETC. Section 214(e)(6) provides for ETC designation of carriers not subject to state commission jurisdiction. Specifically, Section 214(e)(6) states, in relevant part:

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the 2 requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable federal and State law.⁴

³ See ALLTEL Petition at 9-10, Exhibit D filed Aug. 26, 2003.

⁴ 47 U.S.C. §214(e)(6). See also *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, 12 FCC Rcd 22947 (1997).

Furthermore, as a commercial mobile radio service (“CMRS”) provider that will offer a basic universal service package to subscribers who are eligible for Lifeline support, the FCC has the authority to grant ETC status to ALLTEL pursuant to 47 U.S.C. Sections 214(e)(3) and (e)(6).

DISCUSSION

A. ALLTEL’s CMRS Service Is Not Subject To the Jurisdiction of the North Carolina Utilities Commission

Pursuant to Section 214(e)(6), the Commission shall designate as an ETC a common carrier providing telephone exchange service and exchange access service that is not subject to the jurisdiction of a State commission, so long as the carrier otherwise meets the Act’s requirements. The Commission has held that wireless carriers provide exchange access service: “[M]any CMRS providers (specifically cellular, broadband PCS and covered SMR) also provide telephone exchange service and exchange access as defined by the 1996 Act.”⁵ The Commission has also stated that a carrier may demonstrate that it “is not subject to the jurisdiction of a state commission” by providing an “affirmative statement” from the state commission or a court of competent jurisdiction that the state lacks jurisdiction to perform the designation.⁶ The North Carolina Utilities Commission has issued an Order stating that it lacks jurisdiction over ETC

⁵ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order*, CC Docket 96-98, at ¶1012. *See also id.* at ¶1004 (“Congress recognized that some CMRS providers offer telephone exchange and exchange access services”).

⁶ *See Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, Twelfth Report and Order, and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 12208, 12264 (2000).

designations for CMRS providers.⁷ Specifically, the North Carolina Utilities Commission found that it lacked jurisdiction over CMRS services and that the appropriate venue for designation of ETC status for such services is with the FCC.⁸

B. ALLTEL Offers All Of the Services Supported by Universal Service Support Mechanisms

ALLTEL addressed the nine services and functionalities identified in the Commission's rules, 47 C.F.R. 54.101(a), that are the core services to be offered by an ETC and supported by federal universal service support mechanisms.⁹ ALLTEL's universal service offering will be provided in its requested service area in North Carolina over its existing cellular network infrastructure and spectrum, including the same antenna, cell-site, tower, trunking, mobile switching, and interconnection facilities used to serve existing mobile cellular service subscribers.¹⁰ ALLTEL further states that it will advertise its new universal service offering to ensure that consumers within the designated service areas in North Carolina are aware of the service.¹¹ Accordingly, ALLTEL has satisfied the requirements of Sections 254 and 214(e)(1)(A) of the Communications Act of 1934 and Section 54.101(a) of the Commission's rules regarding ETC eligibility.

⁷ See Application of ALLTEL Communications, Inc. for Designation as an Eligible Telecommunications Carrier in the State of North Carolina, CC Docket No. 96-45, Exhibit B (filed Aug. 26, 2003) (attaching North Carolina Utilities Commission Order issued June 24, 2003).

⁸ *Id.*

⁹ See ALLTEL Petition at 4-8.

¹⁰ See *id.* at 8-9.

¹¹ See *id.* at 9.

C. Designating ALLTEL as an ETC Will Advance The Public Interest

CTIA agrees with ALLTEL that a grant of ALLTEL's application will serve the public interest by bringing the benefits of competition to an underserved marketplace and bring new advanced telecommunications services to consumers in North Carolina.¹² Furthermore, designating ALLTEL as an ETC promotes the development of advanced communications and is consistent with the principal goals of the universal service program.

It is now well established that wireless carriers can bring significant benefits to the universal service program. One of the principal goals of the Telecommunications Act of 1996 was to "promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."¹³ Competition drives down prices and promotes the development of advanced communications as carriers vie for a consumer's business.

In a series of decisions granting ETC status to CMRS carriers, the Commission has found "[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies;¹⁴ and that the designation of a CMRS carrier as an ETC in the area served by a rural telephone company serves the public interest "by promoting competition and the provision of new technologies to consumers in high cost and rural areas...."¹⁵ Designating ALLTEL as an ETC

¹² See *id.* at 13-16.

¹³ Telecommunications Act of 1996, Public Law 104-104, 100 Stat. 56 (1996).

¹⁴ *Western Wireless Corporation*, 16 FCC Rcd 48, 55 (2000) ("Wyoming Order"), *aff'd*, 16 FCC Rcd 19144, 19151 (2001).

¹⁵ *Guam Cellular and Paging, Inc.*, 17 FCC Rcd 1502 (2002).

will bring the benefits of competition to consumers in North Carolina. In a competitive market, rural consumers will be able to choose the services that best meet their communications needs. With a choice of service providers, the consumer is able to select a provider based on service quality, service availability, and rates.

The public interest standard under Section 214(e)(2) for designating ETCs in territories served by rural LECs emphasizes competition and consumer benefits, not protection of the incumbent LEC. In considering the impact that Western Wireless' ETC designation would have on rural telephone companies, the Commission said, "we believe that competition may provide incentives to the incumbent to implement new operating efficiencies, lower prices, and offer better service to its customers."¹⁶ Further, Congress has mandated that universal service provisions be "competitively neutral" and "necessary to preserve and advance universal service."¹⁷

ALLTEL has committed to use available federal high cost support for its intended purposes -- the construction, maintenance and upgrading of facilities serving the rural areas for which support is intended. Designating ALLTEL as an ETC would give consumers in covered areas in the State of North Carolina another choice for advanced telecommunications options.

¹⁶ *Id.*

¹⁷ *See* 47 U.S.C. § 253(b).

CONCLUSION

For the foregoing reasons, the Commission should exercise its authority to grant ETC status to ALLTEL for its requested service territories in the State of North Carolina.

Respectfully submitted,

/s/ Michael Altschul

CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION

1250 Connecticut Ave., N.W., Suite 800
Washington, D.C. 20036
(202) 785-0081

Michael Altschul
Senior Vice President & General Counsel

Its Attorney

Dated: January 12, 2004